

# Regulatory Update

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## 1. FCA UPDATES & DEVELOPMENTS

### 1.1. FCA Proposes Stronger Requirements on Oversight of Appointed Representatives

The FCA has launched a consultation [CP21/34](#) on improving the appointed representatives (AR) regime and tackling harm from the model. The FCA has seen a wide range of harm across all sectors where firms have ARs. This often occurs due to principal firms not performing enough due diligence on the AR before appointment or an inadequate oversight and control during an ARs appointment.

The proposed changes aims to address the harm arising in the market whilst retaining cost and competition in the model. The proposal seeks to improve a principal's oversight and require principal firms to provide the FCA with more information of the ARs.

The FCA invites feedback of the CP by March 2022.

CCL can provide advice and help appointing and management oversight of an AR, for more information please [contact us](#). CCL also has RegTech that will help Principal firms to maintain demonstrable oversight of their ARs. To find out more please [contact us](#) for a no obligation demo.

### 1.2. HM Treasury has Published a Consultation on Financial Promotion Exemptions for High Net Worth Individuals and Sophisticated Investors

HM Treasury has [published a consultation](#) on the financial promotion exemptions for high net worth individuals and sophisticated investors. The consultation proposes the following:

- 1) Increasing the financial thresholds for high net worth individuals
- 2) Amending the criteria for self-certified sophistication
- 3) Placing a greater degree of responsibility on firms to ensure individuals meet the criteria to be deemed a high net worth or sophisticated
- 4) Updating the high net worth individuals and self-certified sophisticated investor statements
- 5) Names of the exemption.

Comments are invited by 9 March 2022.

## 2. PRA UPDATES & DEVELOPMENTS

### 2.1. PRA Statement on Pillar 2A Requirements

The PRA has [published a statement](#) on returning to setting Pillar 2A requirements as risk weighted asset percentage.

In May 2020, as a response to COVID-19, the PRA announced it was alleviating pressure from firms by setting Pillar 2A requirements as a nominal amount instead of a percentage of total risk weighted assets.

The PRA no longer considers this to be necessary and, in 2022, all firms will be set Pillar 2A as a variable amount (with the exception of some fixed add-ons, such as pension risk).

### 3. EU REGULATORY UPDATES

#### 3.1. ESMA Q&As

The European Securities and Markets Authority (ESMA) has updated the following [Q&As](#):

- Application of the Alternative Investment Fund Managers Directive
- Improving securities settlement in the EU and on central securities depositories
- Application of the UCITS Directive
- SFTR data reporting

#### 3.2. EBA Strengthens AML/CFT Supervision through Revised Guidelines

The European Banking Authority (EBA) has [published revised guidelines](#) on risk based supervision of financial institutions' compliance with anti-money laundering and countering the financing of terrorism obligations.

The guidelines set out the steps for supervisors to ensure adequate AML/CFT oversight of their sector and support the adoption of effective ML/TF risk management policies and procedures by credit and financial institutions.

The guidelines were updated and strengthened in light of findings from ongoing review work of competent authorities' approaches to AML/CTF supervision.

### 4. FINANCIAL CRIME

#### 4.1. HM Treasury Changes Format to Sanction List

HM Treasury has [published a guidance](#) regarding changes to its sanction's list format. The change to the structure and format of the sanction list will take effect in February 2022.

The guidance sets out the changes to the list, how users can prepare for the change and when users will need to take action.

To discuss how to protect your business from sanctions breaches, please [contact us](#).

## 4.2. Researchers Warn of Red Flags Raised at a Third of EMIs

Transparency International UK have warned in a [report](#) that the payments industry could become a major gateway for illicit funds. Researches who are calling for tougher oversight of the sector have raised that money laundering red flags have been indicated at more than a third UK licenced electronic money institutions.

Electronic Money Institutions (EMI) are licensed and overseen by the FCA. EMIs are subject to money laundering supervision by the FCA but are not covered by the Financial Services Compensation Scheme.

Transparency International UK reviewed 261 EMIs and have found 100 with potential money laundering red flags. This is an indication of risk as opposed to proven actual wrongdoing. These concerns included owners or directors who are directly linked to ongoing money laundering investigations or senior staff previously employed at institutions alleged or proven to have had anti-money laundering failings.

The review also found Russian and Ukrainian language websites were offering to establish anonymous shell companies with accounts at EMIs while licensed e-money business were being advertised for sale on LinkedIn and other websites.

The adequacy of supervision of the sector has been called into question by the transparency campaign group amid a flood of applications for licenses and staff problems at the FCA.

If you are an Electronic Money Institution or Payment Services firm that would like to obtain an independent review of your AML and CTF systems and controls, then please [contact us](#).

## 5. ENFORCEMENT ACTIONS

### 5.1. NatWest Fined for Anti-Money Laundering Failures

The FCA has [fined National Westminster Bank Plc](#) (NatWest) for three offences of failing to comply with anti-money laundering regulations. This marks the first time the FCA has pursued criminal charges for money laundering failings.

The charges covered the firm's failure to properly monitor the activity of a commercial customer, Fowler Oldfield. Despite some of the bank's employees raising and reporting their suspicions to bank staff responsible for investigating money laundering, no appropriate action was ever taken. In addition, the bank's automated transaction monitoring system incorrectly recognised some cash deposits as cheque deposits with the latter carrying a lower money laundering risk than cash, resulting in a significant gap in the bank's monitoring controls.

An investigation by West Yorkshire Police has led to 11 people pleading guilty and three cash couriers being charged. 13 more individuals are awaiting trial for activities in relation to Fowler Oldfield.

NatWest qualified for a 30% discount resulting in a fine of £264,772,619.95. If not for the discount, the fine would have been £397,156,944.14.

With the FCA continuing to sharpen its focus on AML effectiveness in regulated firms, please [contact us](#) if you wish to consider an independent review of your AML systems and controls.

## 5.2. HSBC Fined for Anti-Money Laundering Failings

The FCA has [fined HSBC Bank plc](#) (HSBC) for failing in its anti-money laundering processes. The firm had used automated processes to monitor its transactions to identify possible financial crime. However, the FCA had found that three key parts of its monitoring to contain serious weaknesses over a period of eight years.

HSBC failed to:

- consider whether the scenarios used to identify indicators of money laundering or terrorist financing covered relevant risks until 2014; and carry out timely risk assessments for new scenarios after 2016
- appropriately test and update the parameters within the systems that were used to determine whether a transaction was indicative of potentially suspicious activity
- check the accuracy and completeness of the data being fed into, and contained within, monitoring systems.

The firm agreed to settle and qualified for the 30% discount resulting in a fine of £63,946,800. If not for the discount, the fine would have been £91,352,600.

With the FCA continuing to sharpen its focus on AML effectiveness in regulated firms, please [contact us](#) if you wish to consider an independent review of your AML systems and controls.

## CCL Compliance is now Waystone Compliance Solutions

Titan Regulation, Argus Global, CCL Compliance and ISAS are now Waystone Compliance Solutions who offer a new and unique approach to compliance services at a corporate level.

Formed by merging four specialist compliance companies – we have the capabilities to help you manage regulatory risk right across your organisation.

We can provide key services from initial registration and licensing to compliance programme integration. Our compliance solutions span business strategies, market activities, operational and technology infrastructure not to mention sales and marketing procedures. And we can do so anywhere in the world.

Our aim at Waystone is simple: to enable our clients to navigate the complex regulatory environment with confidence.

At Waystone, we have brought together the experience, the expertise and the global reach to give you the certainty you need to address the ever-changing regulatory world. And by doing so, provide you with a secure route on the road to success.

<https://compliance.waystone.com/>

## Consultancy Services & Support

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  - o [Risk Management](#)
- [FCA Authorisation](#)
- [Prudential Rules & Regulatory Reporting](#)
- Hot Topics
  - o COVID-19
  - o Senior Managers & Certification Regime (SM&CR)
  - o Fifth Anti-money Laundering Directive (5MLD)

If you wish to discuss how Waystone can assist you with any of the issues raised in this regulatory update, please contact us the details below:

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This Regulatory Update provides information about the consultative documents and publications issued by various regulators which are still current, proposed changes to the Rules and Guidance set out in Handbooks, actual changes to Rules and Guidance that have occurred in the months leading up to the update and other matters of relevance to regulated firms. This Regulatory Update is intended to provide general summarised guidance only, and no action should be taken in reliance on it without specific reference to the regulators' document referred to therein.